

Connecticut Legal Services

A Private Nonprofit Corporation
872 Main Street P.O. Box 258 Willimantic, CT 06226--258
Telephone (860) 456-1761 or 1-800-413-7796 (client toll-free line)
Fax (860) 456-7420
e-mail Willimantic@ConnLegalServices.org

Joelen J. Gates
Managing Attorney
Office

Anne Louise Blanchard
Litigation Director

Catherine Cushman
Cheryl Diane Feuerman
Bet Gailor
Jillian L. Griswold
Rebecca Loos
Samuel T.D. Neves, Jr.
Royal Stark
Wendy W. Wanchak
Attorneys at Law

Carole Masters
Volunteer Attorney

Laurel J. Freeman
Paralegal

Thomas W. Cratty, Jr.
Volunteer Paralegal

Heroïda Rios
Kenneth Maisonet Tirado
Legal Assistants

Administrative Office
62 Washington Street
Middletown, CT 06457
(860) 344-0447

Richard F. Orr
Board Chair

Steven D. Eppler-Epstein
Executive Director

Law Offices
211 State Street
Bridgeport, CT 06604

16 Main Street
New Britain, CT 06051

153 Williams Street
New London, CT 06320

20 Summer Street
Stamford, CT 06901

85 Central Avenue
Waterbury, CT 06702

872 Main Street
Willimantic, CT 06226

Satellite Offices

5 Colony Street
Meriden, CT 06451

98 South Main Street
South Norwalk, CT 06854

29 Naek Road, Suite 5A
Vernon, CT 06066

THE JUDICIARY COMMITTEE

February 25, 2015

Testimony of Kevin J. Brophy

H.B. No. 6774 AN ACT CONCERNING ADOPTION OF THE CONNECTICUT UNIFORM POWER OF ATTORNEY ACT

Recommended Action: Approve

My name is Kevin Brophy, and I am the director of the Elder Law Unit at Connecticut Legal Services, Inc. I submit this testimony in support of H.B. 6774, an Act Concerning Adoption of the Connecticut Uniform Power of Attorney Act on behalf of the Legal Services programs in Connecticut and the low- income individuals we serve.

Many people want to appoint someone to handle their financial affairs and otherwise act on their behalf should they become incapacitated. A "durable" power of attorney (POA) is the legal document used for this purpose. Connecticut's current law governing powers of attorney was enacted 50 years ago, and has not been substantially revised since. The Connecticut Uniform Power of Attorney Act updates our law in this area in many beneficial ways.

Under current Connecticut law, a POA does not survive the incapacity of the creator or "principal" and become "durable" unless it specifically states the power of attorney is not affected by the disability or incompetence of the principal. If a person does not have a durable POA and becomes incapacitated, a probate court may appoint a conservator of the estate to handle the person's affairs. The probate court procedure is more costly, inconvenient, and time-consuming, and the conservator appointed may be a stranger, who does not know the person's habits or preferences. In most cases, however, a probate court may not name a conservator, if that person has already made plans for his incapacity by naming an agent in a POA.

Some of the benefits of the Connecticut Uniform Power of Attorney Act are:

- It is a uniform act which will make Connecticut powers of attorney more easily recognized and honored in other states,
- It makes the POA automatically "durable" without additional language,



- It enhances protections for vulnerable individuals from POA abuses and financial exploitation by setting forth mandatory and default duties for agents,
- It uses plain language, e.g. “agent” instead of “attorney in fact” ,
- It describes how a principal or agent can be found to be “incapable”,
- It advises the principal of special powers, e.g. “gifting”,
- It gives standing to more people to seek judicial review of the agent’s conduct,
- It allows an agent to retain the powers not specifically granted to a conservator, if a probate court appoints a limited conservator, and
- It includes more financial instruments, e.g. IRAs

To date the Uniform Power of Attorney Act has been adopted in 17 states. I strongly urge you to support the passage of the UPOAA to make Connecticut the 18th jurisdiction to enact the legislation. Thank you.

Please feel free to contact me at (203) 721-8550 or email at KBrophy@connlegalservices.org